

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

**SHIRLEY WHITE, as Wrongful Death
Beneficiary of KEITH PERKINS, Deceased**

PLAINTIFF

VS.

CAUSE NO. 2:09-CV-00161-GHD-JMV

WEXFORD HEALTH SOURCES, INC.

DEFENDANT

CONSOLIDATED WITH

**SHIRLEY WHITE, as Wrongful Death
Beneficiary of KEITH PERKINS, Deceased**

PLAINTIFF

VS.

CAUSE NO. 2:09-CV-00162-GHD-JMV

**CHRISTOPHER EPPS, Individually and
in His Official Capacity; and
GLORIA M. PERRY, M.D., Individually
and in Her Official Capacity**

DEFENDANTS

**PLAINTIFF'S SURREBUTTAL IN OPPOSITION TO DEFENDANTS CHRISTOPHER
EPPS AND GLORIA M. PERRY, M.D.'S MOTION FOR SUMMARY JUDGMENT
BASED ON QUALIFIED IMMUNITY**

Plaintiff moves the Court for leave to file this her surrebuttal showing the Court that a short surrebuttal is necessary so as to inform the Court as to why Plaintiff does not believe the claim for declaratory injunctive relief against Defendants Epps and Perry should be dismissed.

1. It is true that this Court granted summary judgment for the County of the Defendant regarding the constitutionality of Miss. Code Ann. § 11-46-9 (1)(m).
2. However, discovery in this case has revealed evidence from which Plaintiff believes that Epps and Perry may reasonably be responsible for injunctive and declaratory relief.
3. Defendants Epps and Perry did not file any motion for summary judgment with

respect to declaratory relief within the deadline established by this Court. See docket text order of April 2, 2013, setting the deadline for dispositive motions as April 9, 2013. Thus, there has been no occasion to brief the issue of whether Epps and Perry should be held liable for injunctive and declaratory relief.

4. In view of the consolidation of the instant cases, this Court finally dismissing Epps and Perry would raise an unnecessary issue as to when the appeal time would start to run of their dismissal.

5. In light of Defendants Epps and Perry not moving for summary judgment on Plaintiff's claims of injunctive and declaratory relief, during the time limit established by the scheduling order, the most orderly way of proceeding in this case is for this Court to withhold ruling on any liability of Epps and Perry for injunctive and declaratory relief, until the completion of the trial in this matter. When the Court enters a final judgment in this matter, it could then take into account the claims against Epps and Perry for injunctive and declaratory relief.

6. Because this surrebuttal is self-explanatory, Plaintiff requests to be relieved of writing a supporting memorandum.

Respectfully submitted this the 29th day of May, 2013.

Respectfully submitted,

SHIRLEY WHITE, PLAINTIFF

BY:/s/ Jim Waide
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MS BAR NO.: 6857

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Jim Waide, attorney for Plaintiff, do hereby certify that I have this day electronically filed the above and foregoing with the Clerk of the Court, utilizing the ECF system, which sent notification of such filing to the following:

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THIS the 29th day of May, 2013.

/s/ Jim Waide
JIM WAIDE